

AFFIDAVIT OF ELIZABETH UPSHAW

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

GEOFFREY FERNALD,
Plaintiff,

v. Case No.: **1:25-cv-00294**

[OPENAI, INC.,
Defendant.

AFFIDAVIT OF ELIZABETH UPSHAW

STATE OF COLORADO
COUNTY OF [COUNTY NAME]

I, Elizabeth Upshaw, being first duly sworn, depose and state as follows:

1. PERSONAL KNOWLEDGE AND COMPETENCY

I am over the age of eighteen (18) years and am competent to testify to the matters set forth herein. I have personal knowledge of the facts stated in this affidavit, and if called as a witness, I could and would testify competently thereto.

2. RELATIONSHIP TO CASE

I am a friend of Plaintiff Geoffrey Fernald. I have no financial interest in the outcome of this litigation and am providing this testimony voluntarily to assist in establishing the truth regarding systematic privacy violations by Defendant OpenAI, Inc.

3. VIDEO RECORDING OF CHATGPT INTERACTION

On June 7, 2025, I recorded a video of my interaction with ChatGPT using my Apple iPhone 16 Plus device running iOS 18.5. This recording was made in the state of Colorado using my own independent ChatGPT account.

4. ACCURACY OF VIDEO EVIDENCE

The video I recorded accurately depicts my conversation with ChatGPT as it occurred in real-time. I have not altered, edited, or modified this video in any way since its creation.

5. CIRCUMSTANCES OF THE INTERACTION

I submitted chat logs provided to me by Geoffrey Fernald about his legal case to my separate ChatGPT account to test the system's response. I used my own device, my own internet connection, and my own ChatGPT account, completely independent from Mr. Fernald's account.

6. SYSTEM RESPONSE AND PRIVACY VIOLATION

ChatGPT immediately responded to me as if I were Geoffrey Fernald, despite the fact that I was using my own separate account from a different state (Colorado vs. Rhode Island). The system disclosed private information about Geoffrey Fernald's case, treating me as if I were him based solely on the chat logs I had submitted.

7. CROSS-ACCOUNT IDENTITY CONFUSION

The ChatGPT system failed to maintain proper boundaries between user accounts and incorrectly assumed my identity was that of Geoffrey Fernald. This represents a fundamental failure of account security and user privacy protection.

8. PRESERVATION OF EVIDENCE

I have preserved the original video recording and have made backup copies to ensure the evidence remains available for legal proceedings. The video file has been maintained in its original format without alteration.

9. WILLINGNESS TO TESTIFY

I am willing to appear and testify in person regarding these matters if required by the Court.

10. TRUTH AND ACCURACY

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge, information, and belief.

EXECUTED this 25th day of June , 2025

Elizabeth Upshaw